

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

TERRANCE MONTAGUE,

PLAINTIFF

V.

ROBERT W. MEYERS, ET AL
DEFENDANTS

CIVIL NO. 1:CV-00-0895

(MAGISTRATE JUDGE SMYSER)

PETITION FOR A WRIT OF HABEAS CORPUS AD TESTIFICANDUM

PURSUANT TO TITLE 28 U.S.C. §2241(C)(5), THE PLAINTIFF TERRANCE MONTAGUE REQUESTS THAT THIS COURT ISSUE A WRIT OF HABEAS CORPUS AD TESTIFICANDUM REQUIRING THE DEPARTMENT OF CORRECTIONS OF THE COMMONWEALTH OF PENNSYLVANIA AND/OR THE SUPERINTENDENT ROBERT W. MEYERS AT THE STATE CORRECTIONAL INSTITUTION AT ROCKVIEW TO BRING FOLLOWING INMATE/WITNESSES:

WILLIE BOYD #EJ-2528, DERRICK CLAY #AW-1477

LEON HOPKINS #AY-8726, EUGENE SIMMS #AM-9438

ELMER BURKINS #ED-6490, FAREED DAVIS #AS-1307

CARL FRAZIER #EN-8133

**FILED
HARRISBURG**

JAN 04 2002

MARY E. D'ANDREA, CLE
Per DEPUTY CLERK

BEFORE THE COURT FOR A TRIAL AT THE UNITED STATES DISTRICT COURT, FEDERAL BUILDING, THIRD AND WALNUT STREETS, HARRISBURG, PA., SCHEDULED TO COMMENCE ON FEBRUARY 4, 2002, AT 9:30 A.M. AND STATES IN SUPPORT:

1. THE PLAINTIFF'S CASE DEPENDS IN LARGE PART ON THE TESTIMONY OF THESE WITNESSES. SINCE THE CREDIBILITY OF WITNESSES WILL BE AN ISSUE IN THIS MATTER, THE JURY SHOULD BE ALLOWED TO HEAR THESE WITNESSES TESTIFY PERSONALLY AND OBSERVE THEIR DEMEANOR.

2. THESE WITNESSES WILL TESTIFY THAT AT SAID DAY AND TIME: (A) THEY WERE ASSIGNED BY PRISON OFFICIAL AT SCI-ROCKVIEW TO BE CELL-MATES WITH PLAINTIFF; (B) THIS ASSIGNMENT WAS NOT BY ANY AGREEMENT ON THEIR PART; (C) THEY WERE SMOKERS, HEAVY SMOKERS; (D) THEY WERE NOT ALLOWED TO SMOKE ON THE BLOCK, EXCEPT IN THEIR CELL; (E) BLOCK OUT TIME WAS LIMITED; AND (F) PLAINTIFF WAS FORCED TO BE IN THE CELL WITH THEM WHEN THEY SMOKED, MANY TIMES; (G) THAT PLAINTIFF NEVER SMOKED; (H) THAT PLAINTIFF TOLD THEM THAT HE HAD ASTHMA, AND COMPLAINED TO THEM THAT SMOKING IRRITATED HIS ASTHMA; (I) THAT THEY COULD SEE THAT PLAINTIFF WAS UNCOMFORTABLE AND/OR IN DISCOMFORT WITH THEIR SMOKING.

PLAINTIFF REQUESTS THAT THE DEFENDANTS BEAR THE COSTS OF THE IMPLEMENTATION OF THE TERMS OF THIS WRIT.

DATED: 1-1-02

Terrance Montague
TERRANCE MONTAGUE, #T-2761
BOX A, BELLEFONTE, PA 16823-0820

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CERTIFICATE OF SERVICE

I, TERRANCE MONTAGUE, HEREBY CERTIFY THAT ON JANUARY 1ST 2002 A TRUE AND CO.
COPY OF PETITION FOR A WRIT OF HABEAS CORPUS AD TESTIFICANDUM WAS
GIVEN TO THE FOLLOWING BY PLACING IT IN THE INMATE OUTGOING MAIL BOX

CLERK'S OF COURT
U.S. DISTRICT COURT
228 WALNUT STREET
P.O. BOX 983
HARRISBURG, PA 17108

MS. MARYANNE M. LEWIS
OFFICE OF ATTORNEY GENERAL
COMMONWEALTH OF PENNSYLVANIA
STRAWBERRY SQUARE
HARRISBURG, PA 17120

DATED: 1-1-02

Terrance Montague
TERRANCE MONTAGUE
SIC ROCKVIEW
BOX A BELLEFONTE, PA.